

SENATE BILL No. 237

DIGEST OF INTRODUCED BILL

Citations Affected: IC 23-2-2.7.

Synopsis: Automobile franchise practices. Requires an automobile manufacturer or distributor, as part of a franchise relationship, to make the following payments to an automobile dealer: (1) Not more than 90 days after the termination, cancellation, or nonrenewal of the franchise agreement, the value of certain items that are in the dealer's inventory or possession and whose titles are transferred to the manufacturer or distributor. (2) Upon the termination, cancellation, or nonrenewal of the franchise agreement, the rental value of the dealership facilities. Provides that a failure to make the payments is a deceptive franchise practice.

Effective: July 1, 2008.

Weatherwax

January 8, 2008, read first time and referred to Committee on Commerce, Public Policy & Interstate Cooperation.

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Introduced

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

SENATE BILL No. 237

A BILL FOR AN ACT to amend the Indiana Code concerning business and other associations.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 23-2-2.7-8 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2008]: **Sec. 8. (a) As used in this section, "fair market value"**
4 **means the fair market value on the date of the termination,**
5 **cancellation, or nonrenewal.**

6 **(b) As used in this section, "termination, cancellation, or**
7 **nonrenewal" refers to the termination, cancellation, or nonrenewal**
8 **of a franchise to which a manufacturer or distributor and a dealer**
9 **are parties.**

10 **(c) Not more than ninety (90) days after termination,**
11 **cancellation, or nonrenewal, the manufacturer or distributor shall**
12 **pay to the dealer the amounts described in subsection (d) for items:**

13 **(1) that are in the dealer's inventory or possession at the time**
14 **of termination, cancellation, or nonrenewal; and**

15 **(2) to which the dealer conveys title to the manufacturer or**
16 **distributor.**

17 **(d) A manufacturer or distributor shall pay the following**



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amounts to a dealer:

(1) The acquisition cost of current model year motor vehicles and immediately preceding model year motor vehicles that are acquired undamaged from the manufacturer or distributor.

(2) For all new, unused, and undamaged parts, the result of:

(A) one hundred five percent (105%) of dealer cost; minus

(B) allowances authorized by the manufacturer or dealer.

For purposes of this subdivision, dealer cost is the cost listed in the parts catalog in effect at the time of termination, cancellation, or nonrenewal.

(3) The fair market value of supplies and furnishings purchased by the dealer from:

(A) the manufacturer;

(B) the distributor; or

(C) a source approved by the manufacturer or distributor.

(4) The fair market value of special tools, equipment, or required computer or special service equipment and software offered for sale by the dealer at any time during the three (3) years immediately preceding the termination, cancellation, or nonrenewal.

(5) The fair market value of signs bearing a trademark or trade name whose purchase was recommended or required by the manufacturer or distributor.

SECTION 2. IC 23-2-2.7-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. (a) As used in this section, "termination, cancellation, or nonrenewal" has the meaning set forth in section 8(b) of this chapter.

(b) This section applies in the event of a termination, cancellation, or nonrenewal, other than a termination, cancellation, or nonrenewal due to a dealer's:

(1) insolvency;

(2) license revocation under IC 9-23-2 or IC 9-23-6;

(3) criminal conviction; or

(4) commission of fraud.

(c) Upon a termination, cancellation, or nonrenewal, the manufacturer shall pay the dealer:

(1) if the dealer is leasing the dealership facilities from an individual or entity other than the manufacturer, the lesser of:

(A) an amount equal to the rent for the unexpired lease

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- 1 term; or
2 (B) three (3) years' rent under the terms of the lease; or
3 (2) if the dealer owns the dealership facilities, an amount
4 equal to the reasonable rental value of the dealership facilities
5 for three (3) years.
6 For purposes of subdivision (2), the three (3) year period includes
7 the calendar year in which the termination, cancellation, or
8 nonrenewal occurs and the two (2) immediately preceding calendar
9 years.
10 (d) A dealer that leases the dealership facilities shall mitigate
11 damages under the terms of the lease.
12 (e) A manufacturer may discharge its obligations under a lease
13 by negotiating a lease termination, sublease, or new lease.

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